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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,454	08/08/2003	Edward A. Rosenblum	ROS-1	3629
36532	7590	05/04/2004	EXAMINER	
G. VICTOR TREYZ FLOOD BUILDING 870 MARKET STREET, SUITE 984 SAN FRANCISCO, CA 94102			TRETTEL, MICHAEL	
			ART UNIT	PAPER NUMBER
			3673	

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/637,454

Applicant(s)

ROSENBLUM, EDWARD A.

Examiner

Michael Trettel

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-20 is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☒ Claim(s) 2, 7-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3 to 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Etherington (5,020,177) in view of Chamberlain (5,046,207). Etherington shows a fitted bedsheet 1 that has a side wall 10 including a free edge 11 that lies adjacent to an underside of a mattress upon which the sheet is placed. A sewn casing 13 is formed along the edge to retain a draw string 14 made from an elastic material. The draw string 14 is continuous and includes a loop 22 that extends outwardly of the casing 13 at one corner of the mattress. The loop 22 can be tied off in a knot 23 to adjust the overall length of the drawstring. Note that Etherington therefore shows a flexible sheet that covers a mattress, a elastic cord attached to the flexible sheet that secures the sheet to the mattress, and an unused portion of the cord being formed in a loop. Chamberlain teaches that a fitted sheet with a drawstring can include a retaining device 22 to adjust the overall length of the drawstring to a desired length. The retaining device is a barrel

lock of the type that is now commonly used upon clothing and the like, and is clearly superior to the know used in Etherington since it can be readily and instantly adjusted as needed. It would have been obvious to the skilled artisan to have replaced the knot used in the Etherington bedsheet with a barrel lock type retaining device as taught by Chamberlain for the above reason.

Allowable Subject Matter

Claims 2 and 7 to 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 11 to 20 are allowed.

The closest prior art found relative to claim 11 are the cited patents to Oakhill et al (US 6,216,292 B1) and Stevenson (US 6,014,782), both of which show a clear vinyl mattress protector that can be applied to the foot end of a mattress to protect the same from soiling while being displayed in a showroom. In both cases the protectors comprises a band of 10 gauge vinyl that is wrapped around the foot end of the mattress and are retained by an overlapped segment with mating hook and loop fasteners. The mating fasteners are the only means used to hold the protector(s) in place, with there being no suggestion to use a cord as a retaining device for the protector. The closest reference to the teaching of the use of a cord to hold a protective sheet upon a mattress are the cited patents to Etherington and Chamberlain. There is no suggestion to use an arrangement such as a cord to hold either of the vinyl mattress protectors shown in the prior art upon a mattress. The cited patents already show a functional retaining arrangement that depends upon overlapping the ends of the vinyl sheet, to modify either of these references to

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replace the overlapped ends with a cord would require modification beyond the teachings offered by the prior art of record. As such the claims are considered to be allowable over the prior art of record.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Oakhill et al and Stevenson show vinyl mattress protectors that are of particular interest. Mulloy, Simpson, and Waits et al show cloth devices that are attached to the foot end of a mattress which are of general interest. Graham and Bradley show mattress protective pads which are of general interest. Fontana and Beier show bedding attached logos and tags which are of general interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is 703-308-0416. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

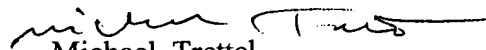
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford, can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

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A handwritten signature in black ink, appearing to read "Michael Trettel", with a long horizontal flourish extending to the right.

Michael Trettel
Primary Examiner
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